

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BEATRICE JEFFERSON

v.	Plaintiff	:
		No. 02-2965
QUALITY COMMUNITY HEALTHCARE		:
FAMILY HEALTH CENTER, QCHC FAMILY		:
CENTER, DANAIL VATEV, M.D.,		:
DEBORAH ROBINSON, P.A.		:
TODD E. NIXON, M.D., and		:
MCP HAHNEMANN UNIVERSITY		:
		Defendants.

ORDER

Presently pending are Defendants Quality Community Healthcare Family Center, QCHC Family Center, Vatev, and Robinson's Motion to Substitute United States of America ("USA") as Defendant, and also their Motion to Dismiss for Lack of Subject Matter Jurisdiction. Plaintiff filed a Response to the motion for substitution indicating that there is no objection thereto. Accordingly, the motion for substitution will be granted and the United States of America will be substituted for the above captioned Defendants Quality Community Healthcare Family Health Center, QCHC Family Center, Danail Vatev, M.D., and Deborah Robinson, P.A..

As substituted, Defendant USA's Motion to Dismiss for Lack of Subject Matter Jurisdiction is also granted because plaintiff has failed to exhaust her administrative remedies. In her Response to Defendant's motion for dismissal, Plaintiff states that she was unaware that the above-captioned defendants were federally funded agencies, and therefore did not pursue her administrative remedies at the time she filed the instant Complaint. She has subsequently filed an administrative claim with the appropriate federal agency and that claim is presently pending. Plaintiff nevertheless objects to the dismissal of the instant action, but rather seeks a stay of this action until such time as a determination is made on the administrative claim.

Pursuant to 28 U.S.C.A. § 2675(a) Plaintiff must first exhaust her administrative claim before

instituting action in this court. Because the administrative claim is presently pending this action must be dismissed as to the United States of America.

AND NOW, this day of October 2002, upon careful and independent consideration of Defendants Quality Community Healthcare Family Center, QCHC Family Center, Vatev, and Robinson's Motion to Substitute United States of America as Defendant, and Motion to Dismiss for Lack of Subject Matter Jurisdiction, **IT IS HEREBY ORDERED** that:

1. Defendants' Motion to Substitute United States of America as Defendant is
GRANTED. The Clerk of Court is directed to substitute the United States of America for
Defendants Quality Community Healthcare Family Center, QCHC Family Center, Vatev, and
Robinson.

2. Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction is **GRANTED**. Plaintiff's Complaint is **DISMISSED** as to the United States of America, without prejudice to re-filing, if necessary, after all administrative claims are exhausted.

BY THE COURT:

Clifford Scott Green, S.J.